

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Hebert	Team: Squad #13	CCRB Case #: 201900743	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/22/2019 2:30 PM	Location of Incident: § 87(2)(b)	Precinct: 47	18 Mo. SOL 7/22/2020	EO SOL 3/8/2021	
Date/Time CV Reported Wed, 01/23/2019 12:31 PM	CV Reported At: Mayor's Office	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 01/23/2019 12:31 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Sanchez	13162	956230	047 PCT
2. SGT Karyn McCormack	00195	930460	047 PCT
3. LT Shaun Tablante	00000	943855	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Arismendi Mena	07247	956919	047 PCT
2. POM Billy Ramirez	15478	957982	047 PCT
3. POM Irvin Saenz	22055	959959	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Shaun Tablante	Abuse: Lieutenant Shaun Tablante damaged § 87(2)(b)'s property.	§ 87(2)(b)
B.LT Shaun Tablante	Abuse: Lieutenant Shaun Tablante entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
C.SGT Karyn McCormack	Abuse: Sergeant Karyn McCormack threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)
D.SGT Karyn McCormack	Abuse: Sergeant Karyn McCormack threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.LT Shaun Tablante	Abuse: Lieutenant Shaun Tablante threatened to arrest § 87(2)(b)	§ 87(2)(b)
F.POM Michael Sanchez	Discourtesy: Police Officer Michael Sanchez acted discourteously toward § 87(2)(b)	§ 87(2)(b)

### Case Summary

On January 23, 2019, § 87(2)(b) reported the following complaint to the New York City Mayor's Office. On January 26, 2019, § 87(2)(b) also filed this complaint via the CCRB website.

On January 22, 2019, at approximately 2:00 p.m., New York City Marshal § 87(2)(b) went to § 87(2)(b) apartment at § 87(2)(b) § 87(2)(b) in the Bronx to evict her, and § 87(2)(b) called 911. Marshal § 87(2)(b) called 911 as well. 47<sup>th</sup> Precinct officers Lieutenant Shaun Tablante, Sergeant Karyn McCormack, Police Officer Arismendi Mena, Police Officer Billy Ramirez, Police Officer Michael Sanchez, and Police Officer Irvin Saenz arrived. § 87(2)(b) refused to open the door and Marshal § 87(2)(b) used a sledgehammer to tear down the front door to § 87(2)(b) apartment. Officers, under Lieutenant Tablante's authority, were allegedly involved in causing this property damage (**Allegation A – Abuse of Authority**, § 87(2)(g)). On the authority of Lieutenant Tablante, officers entered § 87(2)(b) apartment (**Allegation B– Abuse of Authority**, § 87(2)(g)). Sgt. McCormack threatened to forcibly remove § 87(2)(b) to the hospital (**Allegation C – Abuse of Authority**, § 87(2)(g)). EMS employees were on scene and EMTs spoke with § 87(2)(b) about possibly being taken to the hospital. Sgt. McCormack and Lieutenant Tablante allegedly threatened to arrest § 87(2)(b) (**Allegations D and E – Abuse of Authority**, § 87(2)(g)). Police Officer Sanchez allegedly threw § 87(2)(b) bag down a flight of stairs (**Allegation F - Discourtesy**, § 87(2)(g)).

Video evidence of this incident, consisting of a cell phone video that was recorded by § 87(2)(b) was provided to the CCRB by § 87(2)(b). The video footage is attached to IA # 14 (Board Review 01) and summarized in IA # 30 (Board Review 02). Video evidence of this incident was also provided to the CCRB by the NYPD. The video was recorded on body-worn cameras belonging to PO Mena, PO Ramirez, PO Sanchez, and PO Saenz. The video footage is attached to IA # 18-22 (Board Review 03-07) and summarized in IA # 31 (Board Review 08).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Lieutenant Shaun Tablante damaged § 87(2)(b) property.**

**Allegation (B) Abuse of Authority: Lieutenant Shaun Tablante entered § 87(2)(b) § 87(2)(b) in the Bronx.**

It is undisputed that, under Lieutenant Tablante's authority, officers entered § 87(2)(b) apartment after the door to her apartment was removed from its hinges. It is also undisputed that Marshal § 87(2)(b) came to § 87(2)(b) apartment and represented himself as a city official authorized to enter § 87(2)(b) apartment on the basis of a court order.

§ 87(2)(b) (Board Review 09) stated that a city marshal came to her apartment to evict her, but she disputed that he was allowed to do this because she had received a stay order for the eviction. § 87(2)(b) called the police. Approximately ten or fifteen minutes later, officers arrived. After officers had been standing outside her door for over an hour, § 87(2)(b) looked through her peephole and observed officers as well as the marshal banging against the door with a sledgehammer. Then, seven or eight officers, in total, entered her apartment, along with the marshal.

The marshal performing § 87(2)(b) eviction, § 87(2)(b) provided two telephone statements to the CCRB (Board Review 10 and 11). He stated that one of the officers present told § 87(2)(b) landlord, who was also present, that the officers would “keep the peace,” but the landlord would have to grant entry into § 87(2)(b) apartment to Marshal § 87(2)(b) and the officers. The landlord physically broke down § 87(2)(b) apartment door.

In his CCRB interview, EMS Lieutenant § 87(2)(b) (Board Review 12) stated that he was called to the scene, but arrived after § 87(2)(b) door had been taken down and entry into the apartment had been gained.

Lieutenant Tablante (Board Review 21) stated that when he first arrived, he reviewed the marshal’s signed document about the tenant’s eviction and determined that it was the proper paperwork necessary to legally perform an eviction. Lieutenant Tablante advised the marshal that the officers were only there to preserve the peace, but could not assist with the eviction.

Sgt. McCormack (Board Review 22) stated that she did not personally review the eviction order or any other documentation during the incident, but Marshal § 87(2)(b) directly told Sgt. McCormack that § 87(2)(b) stay order had expired. In Sgt. McCormack’s experience, when officers arrive at a scene where a New York City marshal is present, officers need not discuss the legitimacy of the paperwork because the marshal would not be present unless he or she was performing a legitimate eviction and had the appropriate paperwork to document it.

The stay order that § 87(2)(b) provided to the CCRB (Board Review 13) is dated § 87(2)(b). The eviction order that Marshal § 87(2)(b) provided to the CCRB (Board Review 14), dated § 87(2)(b) states that, as early as January 18, 2019, § 87(2)(b) may be evicted without further notice. As per the Notice of Eviction provided by Marshal § 87(2)(b) which lists his name and title (Board Review 14), Marshal § 87(2)(b) is, in fact, a New York City marshal authorized to execute evictions.

The first 15 minutes of PO Ramirez’s body-worn camera footage (Board Review 04) shows that the marshal and his team used a battering ram to open § 87(2)(b) door and officers were not involved in taking this action.

Event Information for Event # § 87(2)(b) and Event Information for Event # § 87(2)(b) (Board Review 15) show that 911 calls were made at 1:38 p.m. and 1:39 p.m., respectively, prompting officers’ presence at § 87(2)(b) apartment.

NYPD Patrol Guide, Procedure 214-13 (Board Review 15) states that the role of a uniformed member of the service when called to the scene of an eviction is to preserve the peace because the execution of a warrant of eviction is the sole responsibility of the city marshal. Uniformed members of service will not assist in breaking a door or damaging other property to affect an eviction.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (C) Abuse of Authority: Sergeant Karyn McCormack threatened to forcibly remove § 87(2)(b) to the hospital.**

§ 87(2)(b) stated that all of the officers present told her, in unison, that they would “forcefully” take her to the psychiatric ward of a hospital without explaining why they would do so. (Given that Sgt. McCormack was the supervisor on scene, Allegation C is pled solely to her. Although Lieutenant Tablante was also a supervisor on scene, body-worn camera footage confirms he was not present in the room when the threats were made.)

Marshal § 87(2)(b) stated that one or more officers whom he could not recall asked § 87(2)(b) if she wanted to go to the hospital because that option was available to her if she wanted to. § 87(2)(b) replied no. Marshal § 87(2)(b) described § 87(2)(b) demeanor as “lucid” and said she did not appear to have cognitive or psychological problems.

Event Information for Event # § 87(2)(b) (Board Review 15), which was categorized as 54 (“Emotionally Disturbed Person,” or “EDP”) states that at 1:38 p.m., a male caller reported that a female locked herself inside her apartment and was “irrational.”

Event Information for Event # § 87(2)(b) (Board Review 15), which was categorized as 39 (Other Crime in Progress) states that, at 1:39 p.m., a female caller reported there were marshals at her door trying to evict her although she had court papers stating that she could stay.

EMS Lieutenant § 87(2)(b) stated that, as a supervisor assigned to the EMS Bronx Tactical Response Group, he was dispatched to the location once it was classified as involving a barricaded person. An EMS crew member who was already present made that classification. There was no reason, other than being initially informed that § 87(2)(b) had previously locked herself in her apartment, why EMS Lieutenant § 87(2)(b) ever suspected that § 87(2)(b) might be a danger to herself or others. The entire time he was present, EMS Lieutenant § 87(2)(b) did not observe anything that led him to believe that § 87(2)(b) was a danger to herself or anyone else. As far as he recalled, no officers ever threatened to remove § 87(2)(b) to the hospital.

EMS Lieutenant § 87(2)(b) also stated that it would not have been proper procedure to remove § 87(2)(b) to the hospital simply because she would not leave the apartment, because refusing to leave the room would not necessarily mean she needed psychiatric help or assessment. After speaking with officers, other EMTs, and § 87(2)(b) herself, EMS Lieutenant § 87(2)(b) determined that § 87(2)(b) was not an EDP because she did not pose a threat to herself or others. He determined that she did not require medical attention and that she was alert and coherent and had decisional capacity. Overall, EMS Lieutenant § 87(2)(b) described § 87(2)(b) demeanor as “upset” and “angry” but “not erratic” because he believed it was normal for her to be upset given that she was being evicted. § 87(2)(b) behavior did not change during the course of the incident. § 87(2)(b) was “a little bit uncooperative” and “stubborn”

by delaying her departure from the apartment in order to gather her things and by being “kind of elusive” and delayed in providing answers to questions posed by EMS crew members. EMS Lieutenant § 87(2)(b) told § 87(2)(b) that if she did not answer questions posed by EMS crew members, she would be removed to the hospital. § 87(2)(b) was not uncooperative in any other way.

Body-worn camera footage does not capture § 87(2)(b) attempting or threatening to hurt herself or others at any point. The footage establishes that Sgt. McCormack, PO Saenz, PO Sanchez, PO Ramirez, and PO Mena all threatened to remove § 87(2)(b) to the hospital, though Sgt. McCormack was the first officer to do so. Specifically, in PO Mena’s body-worn camera footage (Board Review 03) (at approximately 2:52:55 p.m.), Sgt. McCormack says to § 87(2)(b) “You can either voluntarily leave the room now, or you can go to the hospital with EMS.” PO Ramirez’s body-worn camera footage (Board Review 04) also captures EMS Lieutenant § 87(2)(b) (at approximately 2:58:15 p.m.), asking § 87(2)(b) questions about whether she takes medications or has any medical problems. [Cross-referencing the timestamps between PO Mena’s and PO Ramirez’s body-worn camera footage, Sgt. McCormack made her statement to § 87(2)(b) approximately five minutes before EMS Lieutenant § 87(2)(b) asked § 87(2)(b) pointed questions to assess her.]

Sgt. McCormack stated that she was initially told that the Event was related to an EDP. When she arrived on scene, § 87(2)(b) was locked inside her apartment and refusing to open the door. Sgt. McCormack did not believe that § 87(2)(b) was trying to hurt herself. Sgt. McCormack never had any discussion with officers or EMS personnel about taking § 87(2)(b) to a hospital. Sgt. McCormack described § 87(2)(b) demeanor as “unstable” strictly due to her verbal statements about not having to leave and due to her failing to get dressed or gather her belongings even after her door was broken down. When presented with PO Mena’s body-worn camera footage (Board Review 03) showing her telling § 87(2)(b) that if she did not leave, she would be removed to the hospital because she was acting “irrational,” Sgt. McCormack stated that it was her personal opinion that § 87(2)(b) was an “EDP” and was acting irrational, although EMS is ultimately responsible for deciding whether someone is an EDP. Sgt. McCormack thought § 87(2)(b) was behaving irrationally because she had refused to open the door for so long, allowed the door to be broken down, and had taken a “very long” time to get dressed. There were no other reasons why Sgt. McCormack believed § 87(2)(b) was behaving irrationally. During her CCRB interview, Sgt. McCormack was presented with PO Mena’s body-worn camera footage (Board Review 03) showing her telling § 87(2)(b) that if she did not leave, she would be removed to the hospital because she was acting “irrational.” Sgt. McCormack stated that, at this point in the incident, EMS had not yet determined whether § 87(2)(b) was an EDP.

Lieutenant Tablante described § 87(2)(b) demeanor as “clearly upset because she was being evicted.” Lieutenant Tablante stated that, based on having reviewed the body-worn camera footage, Sgt. McCormack was the first person to mention to § 87(2)(b) that she might go to the hospital. Specifically, Sgt. McCormack said something to the effect of, “You have one minute to get your stuff or you’re going to have to go with EMS.” During his CCRB interview, Lieutenant Tablante stated that, at the point in the body-worn camera footage (Board Review 03) in which Sgt. McCormack tells § 87(2)(b) that if she did not leave she would be removed to

the hospital, EMS had not yet determined whether § 87(2)(b) was an EDP.

NYPD Patrol Guide, Procedure 221-13 (Board Review 16) states that a person is considered emotionally disturbed, and therefore must be taken into protective custody, when she appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (D) Abuse of Authority: Sergeant Karyn McCormack threatened to arrest**

§ 87(2)(b)

**Allegation (E) Abuse of Authority: Lieutenant Shaun Tablante threatened to arrest** § 87(2)(b)

§ 87(2)(b) stated that all of the officers present during the incident mentioned the possibility of taking her to jail or arresting her.

None of the video footage captures any officer threatening to arrest § 87(2)(b)

Marshal § 87(2)(b) stated that one or more officers whom he could not describe told § 87(2)(b) that she would be arrested for obstructing governmental administration. Marshal § 87(2)(b) could not recall which officers or how many officers said this.

Sgt. McCormack and Lieutenant Tablante denied that they themselves, or any other officer, ever told § 87(2)(b) that she might be arrested. Sgt. McCormack stated that she did not believe that § 87(2)(b) committed any offense for which she could be arrested during the incident.

New York State Penal Law Section 140.05 (Board Review 17) states that a person is guilty of trespassing when he or she knowingly enters or remains unlawfully in or upon premises.

The extensive video footage of this incident does not capture any officer threatening to arrest § 87(2)(b). However, body-worn camera footage (Board Review 04) shows that, after officers enter her apartment at 2:50 p.m., multiple officers tell § 87(2)(b) to leave the apartment (including at 2:53:18 p.m. in PO Ramirez's body-worn camera footage, when Sergeant McCormack says, "You've been told numerous times to leave and you're not leaving so you have one minute to go.") § 87(2)(b) does not leave the apartment until 3:07 p.m.

§ 87(2)(b), § 87(2)(g)

**Allegation (F) Abuse of Authority: Police Officer Michael Sanchez acted discourteously toward § 87(2)(b)**

§ 87(2)(b) stated that, while she was putting her shoes on, an approximately 5'6" or 5'7" tall black male uniformed officer who was bald with an average build picked up her bag and threw it past the hallway outside of her apartment, down one flight of stairs.

Marshal § 87(2)(b) stated that no officer ever threw a bag belonging to § 87(2)(b) downstairs, and EMS Lieutenant § 87(2)(b) did not recall any officer doing so.

Sgt. McCormack stated that she did not know if an officer ever threw a bag belonging to § 87(2)(b) down the stairs. Lieutenant Tablante stated that no officer ever threw a bag belonging to § 87(2)(b) down the stairs and, in fact, he saw an unspecified officer help § 87(2)(b) wheel a cart containing her belongings down the stairs.

In PO Sanchez's body-worn camera footage (Board Review 05), at the 34:38 timestamp, as § 87(2)(b) is sitting on a step and putting on socks, PO Sanchez picks up § 87(2)(b) bag from the bottom of one flight of stairs, then walks toward the next flight of stairs going downward, and places the bag on the second-from-the-top step of that flight of stairs. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Civilian and Officer CCRB Histories**

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- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 18).
- Lieutenant Tablante has been a member of service for 12 years, and this is his first CCRB complaint.
- Sgt. McCormack has been a member of service for 16 years, and has been a subject in three allegations in three prior CCRB complaints, with no substantiated allegations. Sgt.

§ 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- As of July 9, 2019, no Notices of Claim have been filed in regard to this incident (Board Review 19).
- A search of the Office of Court Administration database revealed that § 87(2)(b) has no prior criminal convictions (Board Review 20).

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_

Signature	Print Title & Name	Date
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Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
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Reviewer: \_\_\_\_\_

Signature	Print Title & Name	Date
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